

James A. McPhee, WSBA #26323  
John T. Drake, WSBA #44314  
WITHERSPOON BRAJCICH MCPHEE, PLLC  
601 W. Main Ave., Suite 714  
Spokane, WA 99201  
Phone: (509) 455-9077  
Fax: (509) 624-6441  
Email: [jmcphee@workwith.com](mailto:jmcphee@workwith.com)  
[jdrake@workwith.com](mailto:jdrake@workwith.com)

*Attorneys for Plaintiff*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

HANDS ON TRADE ASSOCIATION,  
INC.,

Plaintiff,

v.

BRIAN OAKS, an individual; and  
WITHINMYSITE.COM, LLC, d/b/a  
IWANTASPA, a Utah limited liability  
company,

Defendants.

No. 18-CV-0011

COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF

Plaintiff Hands On Trade Association, Inc., through undersigned counsel,  
alleges as follows:

**I. PARTIES**

1.1. Plaintiff Hands On Trade Association, Inc. is a Washington  
corporation with its principal place of business in Spokane, Washington.

COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF - 1  
Case No. 18-CV-0011

**WBM** | WITHERSPOON  
BRAJCICH  
MCPHEE  
A PROFESSIONAL LIMITED LIABILITY COMPANY  
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Spokane, Washington 99201  
Phone: (509) 455-9077  
Fax: (509) 624-6441

1.2. Defendant Brian Oaks is an individual residing in Highland, Utah.

1.3. Defendant WithinMySite.com, LLC, doing business as iWantaSpa, is a Utah limited liability company with its principal place of business in Highland, Utah.

## II. JURISDICTION AND VENUE

2.1. Subject Matter Jurisdiction. The Court has subject matter jurisdiction under 28 U.S.C. § 1332(a)(1) because Plaintiff and Defendants are citizens of different states and the amount in controversy exceeds \$75,000.00.

2.2. Personal Jurisdiction. The Court has personal jurisdiction over Defendants because Defendants have established systematic and continuous contacts with the state of Washington. Personal jurisdiction is also properly exercised because Defendants have purposefully directed their activities toward the state of Washington and Plaintiff's claims arise from those activities.

2.3. Venue. Venue is proper under 28 U.S.C. § 1391(b)(2) because a substantial portion of the events giving rise to Plaintiff's claims occurred in this District.

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### III. FACTS

3.1. Plaintiff is a trade association for cosmetologists, estheticians, beauticians, massage therapists, and other professionals whose services focus on the appearance and wellness of the human body.

3.2 Plaintiff offers a variety of products and services to its members. These products and services include, among others, malpractice insurance and general liability insurance. Plaintiff charges its members an annual membership fee for these products and services.

3.3 Beginning in or about 2006, Plaintiff partnered with Defendants to provide its members with the ability to build a custom website that would be hosted by Defendants (the "Web Builder Service"). Plaintiff and Defendants entered into a contract whereby Plaintiff acquired a license to the Web Builder Service for each of its members for an annual per-member licensing fee.

3.4 In mid-2017, after the contract had expired, Defendants unilaterally increased the licensing fee for the Web Builder Service.

3.5 Unwilling to pay the higher fee, Plaintiff terminated its relationship with Defendants in or about September 2017.

3.6 Before parting ways, Plaintiff and Defendant made arrangements for members who wished to continue using the Web Builder Service to do so at their

1 own expense. In particular, Plaintiff and Defendants agreed that, when it came  
2 time for a member to renew its membership with Plaintiff, the member would be  
3 given the option to license the Web Builder Service from Defendants directly for  
4 whatever fee Defendants wished to charge.  
5

6 3.7 In a letter formally terminating the relationship, Plaintiff informed  
7 Defendants that its membership list was proprietary and instructed Defendants not  
8 to contact its members for any purpose other than informing them of their option to  
9 continue using the Web Builder Service at their own expense.  
10

11 3.8 Beginning on a date unknown, but no later than January 1, 2018,  
12 Defendants began sending unsolicited and unauthorized emails to Plaintiff's  
13 members. The emails contain false and misleading statements about Plaintiff's  
14 business and encourage Plaintiff's members to join a competing trade association.  
15  
16

17 3.9 One such email, attached hereto as **Exhibit A**, states:

18 We've been receiving a lot of calls from members like you wondering  
19 what the heck is going on with the Hands On Trade Association  
20 (HOTA). They say HOTA is not answering the phones nor  
21 responding to e-mails and they can't log into our [Web Builder  
22 Service] account anymore. They're wondering if they're still in  
23 business anymore.

24 We have some of the same concerns because we can't reach them  
25 either. My company has provided the [Web Builder Service] to their  
26 members for more than 9 years and this new degradation of their  
business is very worrisome. I'm calling, e-mailing, and sending text  
messages and getting no reply[.]

\* \* \*

[Y]ou should know that once your current membership with HOTA expires, we will no longer be able to provide [the Web Builder Service] to you for free... but all hope is not lost. You can either pay for our services monthly or, even better, you can sign up with one of the other less expensive associations who offer the [Web Builder Service] as one of their many member benefits.

3.10 Another email, attached hereto as **Exhibit B**, states:

It appears as though Hands On Trade will NOT be renewing your membership benefits next year. That means you have about 30 days to decide how you like to move forward to keep the additional benefits you've had in the past (i.e. Website, Hosting, Custom App, Appointment Scheduler, Listing on iWantaSpa.com, etc.) up and running. The great news is that you have a great option available:

1. You can let us know of your interest to keep these benefits up and running and we can begin billing your credit card \$9.95 monthly upon your approval.  
Please [click here](#) to renew.

2. Even better, you can switch your account over to any of the other less expensive organizations we've partnered with to provide you with our services along with other benefits as a part of their membership plans.  
Please [click here](#) to proceed.

3.11 On information and belief, Defendants are sending emails like those excerpted above to thousands of Plaintiff's members. The emails are timed to arrive roughly two (2) months before the recipients' memberships come up for annual renewal.

1           3.12 One of the less expensive “partner” associations referenced in  
2 Defendants’ emails is Health & Bodywork Association. On information and  
3 belief, Health and Bodywork Association is owned by Defendant Brian Oaks.  
4

5           3.13 On information and belief, Health & Bodywork Association offers  
6 insurance coverage as a benefit of membership. On information and belief, Health  
7 & Bodywork Association offers precisely the same types of coverage that Plaintiff  
8 provides its members.  
9

10           3.14 On January 5, 2018, Plaintiff served Defendants with a cease and  
11 desist letter demanding that Defendants refrain from making false and misleading  
12 statements about Plaintiff’s business and tortiously interfering with Plaintiff’s  
13 business relationships with its members. A copy of the cease and desist letter is  
14 attached hereto as **Exhibit C**.  
15  
16

17           3.15 Despite having been served with Plaintiff’s cease and desist letter,  
18 Defendants have continued to make false and misleading statements about  
19 Plaintiff’s business and have continued to tortiously interfere with Plaintiff’s  
20 business relationships with its members.  
21

22           3.16 A significant number of Plaintiff’s members have either cancelled or  
23 not renewed their memberships as a result of Defendants’ actions.  
24  
25  
26

## IV. CAUSES OF ACTION

4.1 Plaintiff incorporates and realleges each of the foregoing paragraphs as if fully set forth herein.

4.3 Plaintiff will suffer irreparable harm in the form of lost business and irreversible reputational injury if Defendants are not enjoined from making false and misleading statements about Plaintiff's business and Plaintiff's willingness to renew its members' benefits.

4.4 A balancing of the equities weighs in favor of granting injunctive relief. Defendants have made knowingly false and misleading statements about Plaintiff's business in an effort to divert business away from Plaintiff and to a competing business owned by Defendant Brian Oaks.

1           4.5    An injunction prohibiting Defendants from making false and  
2 misleading statements about Plaintiff's business is in the public interest. If  
3 Defendants are not enjoined from making such statements, Plaintiffs' members  
4 will be misled into thinking that Plaintiff is unwilling or unable to renew their  
5 memberships and the malpractice insurance and general liability insurance that is  
6 attendant thereto.  
7

8  
9                   **Claim 2 – Tortious Interference with Business Expectancy**

10           4.6    Plaintiff incorporates and realleges each of the foregoing paragraphs  
11 as if fully set forth herein.  
12

13           4.7    Plaintiff has valid contractual relationships and business expectancies  
14 with its members.  
15

16           4.8    Defendants had knowledge of Plaintiff's contractual relationships and  
17 business expectancies with its members.  
18

19           4.9    Defendants intentionally interfered with Plaintiff's contractual  
20 relationships and business expectancies with its members, causing Plaintiff's  
21 members to cancel or not renew their memberships.  
22

23           4.10   Defendants acted with an improper purpose and using improper  
24 means.  
25  
26



1 4.11 Plaintiff incurred damages as a direct and proximate result of  
2 Defendants' actions.

3 **Claim 3 – Violation of Washington Consumer Protection Act**  
4

5 4.12 Plaintiff incorporates and realleges each of the foregoing paragraphs  
6 as if fully set forth herein.

7 4.13 Defendants committed one or more unfair or deceptive acts or  
8 practices occurring in trade or commerce by contacting Plaintiff's members and  
9 falsely informing them that Plaintiff's business is on the brink of failure and that  
10 Plaintiff would not be renewing their membership benefits.  
11

12 4.14 Defendants' unfair and deceptive acts and practices affect the public  
13 interest.  
14

15 4.15 Plaintiff was injured in its business or property as a direct and  
16 proximate result of Defendants' actions.  
17

18 **Claim 4 – Defamation**  
19

20 4.16 Plaintiff incorporates and realleges each of the foregoing paragraphs  
21 as if fully set forth herein.

22 4.17 Defendants have made one or more false and defamatory statements  
23 about Plaintiff to Plaintiff's members.  
24

25 4.18 Defendants' statements were not privileged.  
26

5.1 Plaintiff demands a trial by jury on all claims so triable.

WHEREFORE, Plaintiff prays for the following relief:

A. A temporary restraining order enjoining Defendants from making false and misleading statements about Plaintiff's business;

B. A preliminary injunction enjoining Defendants from making false and misleading statements about Plaintiff's business;

C. For judgment in Plaintiff's favor on all causes of action;

D. For an award of damages in an amount to be proven at trial;

E. For an award of treble damages pursuant to RCW 19.86.093;

F. For an award of attorneys' fees and costs as authorized by law;

G. For prejudgment and post-judgment interest as authorized by law; and

H. For such other relief as the Court deems just and equitable.

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1  
2 DATED this 10th day of January, 2018.  
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4 WITHERSPOON BRAJCICH MCPHEE, PLLC  
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6 By: s/ John T. Drake  
7 James A. McPhee, WSBA #26323  
8 John T. Drake, WSBA #44314  
9 *Attorneys for Plaintiff*  
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